A Proposed Program for the Third Hague Conference.

By William I. Hull.

The Third Hague Conference will probably be held in the year 1915, and it has been agreed that two years before that date the governments shall appoint committees to take into consideration a program of work for it. In view of these facts, it is appropriate that there should begin at once an effort to mold public opinion in support of a program of tasks the accomplishment of which is most to be desired. Since some of the attempts of the conference of 1899 became the achievements of the conference of 1907, there is reason to believe that some of the attempts of 1907 will become the achievements of 1915. The following proposed program, therefore, is in the nature of unfinished business, most of which came before the first two conferences and which should be finished in the third.

It includes the nine following topics:

I. There should be either an international agreement for the limitation of armaments, or, if this agreement be again found impossible, then the conference should itself appoint a commission of inquiry to investigate the problem and report a practicable solution of it to the governments, with the recommendation that it should be immediately adopted without waiting for action upon the part of the Fourth Hague Conference. The first two Hague Conferences condemned unanimously and unqualifiedly the recent extraordinary increase of armaments on land and sea; but they were able to do no more than to urge upon each of the governments the appointment of a commission to investigate the problem, and this step has not yet been taken by any of the governments.

II. There should be a renewed attempt to secure the exemption of private property from capture in time of warfare on the sea. The United States delegation made a noble attempt to secure this exemption in the first two conferences, and the second secured a vote of twenty-one of the forty-four nations represented in favor of it.

III. The code of laws and customs which has been adopted by the first two Hague Conferences for the mitigation of the evils of warfare upon land should be applied to warfare on the sea, and especially the Geneva Convention, or the Red Cross rules, as applied to naval warfare should be further revised in the interests of humanity.

IV. The use of submarine mines should be further restricted in the interests of humanity and of neutral commerce.

V. The United States should give in its adhesion to the prohibition of dum-dum bullets and of projectiles the object of which is the diffusion of asphyxiating or poisonous gases.

All of the governments represented at the First Hague Conference, with the exception of Great Britain, Portugal, and the United States, agreed to this prohibition; at the Second Hague Conference all the new governments represented adopted the prohibition, and Great Britain and Portugal also gave in their adhesion to it. Thus the United States is left alone in the family of nations in refusing to subscribe to this eminently humane prohibition.

VI. A unanimous agreement should be secured for the permanent prohibition of warfare in or from the air.

The first conference agreed to prohibit warfare in the air until the end of the second conference, and the second conference agreed to prohibit it until the end of the third conference. The third conference should secure a permanent prohibition of warfare in the air, and thus not only prevent the only remaining earthly element from being desecrated by the horrors of warfare, but also prevent the assumed necessity of devoting the expenditure of untold millions for armaments in the air which shall rival, and eventually supersede, armaments on land and sea.

It will be observed that the six points mentioned above have to do with the mitigation and restriction of the horrors of warfare itself. The following suggestions have to do with the all-important means of preventing warfare in the future.

VII. A world treaty of obligatory arbitration should be adopted which would provide for the arbitration of all justiciable disputes between nations and for the appointment of international commissions of inquiry which shall decide upon the justiciability or non-justiciability of each dispute as it arises. The United States delegation at the second conference made an attempt to secure one world treaty of obligatory arbitration which should take the place of the 2,070 treaties which would be necessary to bind the nations together in pairs, and as is well known, the United States Government has since made the attempt to broaden the scope of arbitration by negotiating with Great Britain and France a treaty which would permit an international commission of inquiry to pass upon the justiciability of a given dispute, and then bring that dispute to a court of international justice. Both of these attempts should be made on a world scale at the third conference, for if they should succeed they would constitute the longest step ever taken toward the permanent preservation of international peace, and would bring the world hopefully near to that much-to-be desired goal.

VIII. A prolific cause of recent and present warfare is the annexation of territory by the great powers for the purpose of colonial expansion. An attempt, therefore, should be made at the Third Hague Conference to secure a unanimous agreement on the part of each power to respect the territorial integrity of all the other members of the family of nations, and this agreement should be placed under the guarantee of the family of nations. Thus would be applied on a world scale, and placed under the guarantee of the entire family of nations, the principle of the Monroe Doctrine, which has been for so long the object of American solicitude, while at the same time there would be accomplished a most important development of that principle of neutralization which has been applied with such marked success in the case of Switzerland, Belgium, Luxemburg, and the coasts of the North Sea.

IX. A renewed attempt should be made to procure an agreement which shall solve the problem of constituting the International Court of Arbitral Justice.

One of the most noteworthy steps taken by the Second Hague Conference, on the initiative of the United States delegation, was the agreement to establish this court just as soon as the problem could be solved of selecting fifteen judges in such a way as to give genuine

representation upon the court to each of the nations of the world. A thoroughly satisfactory solution of this problem has not yet been advanced, but a determined and international effort to secure this solution should be immediately entered upon by the governments in preparation for its adoption at the Third Hague Conference.

With the adoption of this court the keystone would be placed in the arch of international justice.

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War Not Inevitable—All International Disputes Arbitrable.

Remarks of Hon. Jackson H. Ralston upon the Paper of Senator Turner Before the American Society of International Law, April 26, 1912.

The Senator's experience in connection with international matters is such as to command respectful attention to whatever he says, and that we most cheerfully accord. Yet I must think that in many regards his argument is singularly inconclusive and incomplete.

Before addressing myself to what I want to say in regard to the address proper, permit me to allude to one or two expressions which I think deserve our consideration even momentarily, and deserve large consideration in the final outcome of the general subject we have in mind.

Senator Turner in one connection says that war is a necessary evil. Now, we have to bear in mind that war is a thing of human origin and under human control. If that be so, I must deny the statement, oft repeated, that war is a necessary evil, for a thing which can be controlled, and which ought to be controlled, and which is human in its origin, is not a necessary evil. War is an evil which, under certain circumstances, it may be difficult to escape from. That it is a necessary evil, I particularly deny.

Senator Turner says very decidedly that it is international law that a conquering nation may exact whatever it will from the nation conquered, and that that is recognized by the law writers.

Mr. President, I am going to take the liberty of denying that. I will agree, and we must agree, that many international law writers have said just that thing, and we must agree that in works of international law what is called law is laid down as stated by Mr. Turner. But let us consider the naked facts. Suppose a writer on criminal law were to say that he has noticed that whenever the robber overcame the person robbed, he took away from him whatever he chose of his possessions. And suppose he said that there were a hundred different instances of that kind, and he enumerated them one after another in his book on criminal law. Would there then be a law of robbery, because those distinct, isolated facts had been enumerated within the pages of a textbook relating to criminal law?

I take it that the term "law" is a term of grand application, that it has no application to robbery, and that it has no application to the distinct and separate several events which occur when conquering nations possess themselves of the goods of conquered nations. In order that there should be law, there must be running through them all a common principle to which men can with safety appeal, and that principle must have a philosophical or an ethical foundation, and in the absence of that philosophical or ethical foundation there is no law. There is simply gathered together a bundle of disjointed facts. Now that appears to me to be the truth with regard to the thing which Senator Turner states to be international law. It is not international law, even though it be so proclaimed, and it never will be international law, because it is not founded upon any ascertainable basis of right.

But what I have said so far is in a way apart from the argument, and yet it seems to me proper to say it, at least by way of suggestion, because these things have to be thought out and straightened out, and there must be straight thinking on international law before we arrive at straight conclusions as to what is or is not law, and before we regard as law repeated facts which are not law.

Senator Turner believes that four classes of things should be reserved from international arbitration. The first of these is the independence of the contracting parties. Now I am prepared to accept the view that independence is not an arbitrable subject; and to put that in an arbitral treaty, although it has been done, and done more than once, is putting in words which under the circumstances are absolutely meaningless. If we put in an arbitral treaty the statement that we will discuss and settle by way of arbitration between ourselves all disputes except those which relate to the independence of the several parties, although that has been done, and I speak with due respect to those who have done it, we are doing an aimless thing. The very hypothesis upon which arbitration rests, upon which treaties of arbitration rest between nations, is the independence and the equality of the two parties, and to iterate it becomes absolutely without meaning. So we may dismiss the item with this statement.

Mr. Turner next suggests that the nature of the body politic is not arbitrable and should be excepted from treaties of arbitration. Of course, it is not the subject of arbitration, for the very reason that it offers no international question. Why should you put into a treaty a limitation upon the action of an arbitral court as to a thing which is in its nature not international. To put it in is once more a waste of words and a confusion.

Again, he says that arbitration must not relate to the exercise of domestic powers. Of course it must not, and never has. And why should that be in a treaty? The placing of it in a treaty or the imposition of that as a limitation upon arbitration is as purely a work of supererogation as well could be. The very language shows it. You are dealing with international arbitration. Therefore why should it relate to the exercise of domestic powers? So I say that this point has no relation whatever to treaties.

Take the fourth point—matters of foreign policy deemed by the state to be necessary to safeguard either its independence or its domestic institutions.

The argument under this head would be so long that I cannot enter into it. I only want to make a few observations. It is noteworthy that in support of that proposition Senator Turner refers to the Monroe Doctrine and its several applications, down even to its application in the case of Venezuela. Now, if we think a moment, we shall see that under this language a difficulty arising with relation to the Monroe Doctrine, sup-